IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL REVISION APPLICATION NO.127 OF 2004

1. Tanaji Abaso Pawar,
   Age: Adult, Occ: Agriculture

2. Dilip Tanaji Pawar,
   Age: Adult, Occ: Agriculture

3. Mohan Tanaji Pawar,
   Age: Adult, Occ: Agriculture

4. Vijay Tanaji Pawar,
   Age: Adult, Occ: Agriculture

All residing at Village Chitali,
Tal: Khatav, Dist: Satara. .... Applicants

- Versus -

1. The State of Maharashtra

2. The Special Recovery Officer,
   At Post: Phaltan, Tal: Phaltan,
   Dist: Satara. .... Respondents

WITH

CIVIL REVISION APPLICATION NO.128 OF 2004

Smt. Shushila Shivajirao Pawar,
Age: Adult, Occ: Agriculture,
residing at Village Chitali,
Tal: Khatav, Dist: Satara. .... Applicant

- Versus -

1. The State of Maharashtra

2. The Special Recovery Officer,
   At Post: Phaltan, Tal: Phaltan,
   Dist: Satara. .... Respondents

CIVIL REVISION APPLICATION NO.129 OF 2004

1. Vasantrao Jyotirao Pawar
(deceased):

1a) Youraj Vasantrao Pawar
Age: Adult, Occ: Agriculture

1b) Pruthaviraj Vasantrao Pawar,
Age: Adult, Occ: Agriculture

1c) Smt. Rukmini Vasantrao Pawar,
Age: Adult, Occ: Housewives

All residing at Village Chitali,
Tal: Khatav, Dist: Satara. .... Applicants

- Versus -

1. The State of Maharashtra

2. The Special Recovery Officer,
At Post: Phaltan, Tal: Phaltan,
Dist: Satara. .... Respondents

CIVIL REVISION APPLICATION NO.130 OF 2004

Prabhakar Abasaheb Pawar,
Age: Adult, Occ: Agriculture,
residing at Village Chitali,
Tal: Khatav, Dist: Satara. .... Applicant

- Versus -

1. The State of Maharashtra

2. The Special Recovery Officer,
At Post: Phaltan, Tal: Phaltan,
Dist: Satara. .... Respondents

AND

CIVIL REVISION APPLICATION NO.131 OF 2004

1. Maloji Abasaheb Pawar

2. Suhas Maloji Pawar

Age: Adult, Occ: Agriculture,
All residing at Village Chitali,

Tal: Khatav, Dist: Satara. .... Applicants

- Versus -

1. The State of Maharashtra

2. The Special Recovery Officer,
At Post: Phaltan, Tal: Phaltan,
Dist: Satara. .... Respondents

Shri S.M. Suryawanshi for the Applicant/s
in all the Applications.

Shri S.N. Gawade, Asst. Government Pleader,
for the Respondents in all the Applications.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: SEPTEMBER 08, 2004

ORAL JUDGMENT:

1. Since common questions of law and facts arise in all these civil revision applications, they were heard together and are being disposed of by this common judgment.

2. Heard. Rule. By consent, the rule is made returnable forthwith.

3. In all these applications the applicants challenge the rejection of their applications under Section 18 of the Land Acquisition Act, 1894, hereinafter called as "the said Act" which were filed by the applicants seeking enhancement of the compensation awarded by the Land Acquisition Officer consequent to acquisition of

their land. The applications have been rejected on the ground that the amount of compensation awarded by the Land Acquisition Officer in terms of the award passed under Section 11 of the said Act was accepted by the applicants without lodging protest.

4. Placing reliance in the decision of this Court in the matter of **Manjiri Ranganath Kulkarni v. State of Maharashtra,** reported in 2003 (1) ALL M.R. 27, the learned Advocate for the applicants submitted that the authorities considering the application under Section 18 of the said Act cannot reject the application except on the ground that the same is beyond the period of limitation prescribed thereunder. The applications having been rejected on totally extraneous grounds, the orders passed by the authorities are without jurisdiction and, therefore, should be set aside. The learned A.G.P. appearing for the respondents, on the other hand, has submitted that the second proviso to Section 31(2) of the said Act clearly requires the acceptance of money under protest in order to enable the interested party to seek reference under Section 18 of the said Act and in all the cases in hand, undisputedly, the amount was accepted without lodging protest and therefore no fault can be found with the impugned orders passed by the authorities rejecting the applications filed by the applicants.

5. The Section 18(1) of the said Act clearly entitles the interested person who has not accepted the award to make a request to the Collector to refer the matter for determination by the Court in relation to the measurement of the land or the amount of compensation or in relation to apportionment of the compensation amongst the interested persons. Undoubtedly, in terms of sub-section (2) such an application will have to be filed within a period of six weeks from the date of intimation of the award passed by the Land Acquisition Officer under Section 11 of the said Act and in case of non-receipt of such intimation under Section 12(2) of the said Act, the period of limitation would be six months from the date of the award for the purpose of seeking reference under Section 18 of the said Act.

6. In **Manjiri Ranganath Kulkarni's** case (supra) the Collector had rejected the application filed under Section 18 on the ground that sufficient material was not produced in support of the claim for enhancement along with the application and secondly on account of failure on the part of the applicant to pay sufficient Court fee within the period of limitation prescribed for filing the application, though the application was filed within the period of limitation. While setting aside the order of the Collector rejecting the application on

the said ground and referring to Section 18 of the said Act, and various decisions of this Court including the decisions in the matters of **Bhagwan Pandurang Patil v. Special Land Acquisition Officer,** reported in 1986 Mh.L.J. 181, **Balkrishna Daji Gupte v. The Collector of Bombay,** reported in AIR 1923 Bom. 290, **Mahadeo Krishna Parkar v. Mamlatdar of Alibag,** reported in AIR 1944 Bom. 200 as well as **Mohanlal Hochandra Doshi v. State of Maharashtra,** reported in AIR 1967 Bom. 224, it was held that the provisions of law contained in Section 18 of the said Act do not authorise the Collector to reject the application on any ground other than those specified under the said provision of law and the law in that regard is well-settled in view of the above referred various decisions.

7. The Section 31 of the said Act deals with the payment of compensation or deposit thereof in the Court. The sub-section (1) thereof provides that on making an award under Section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the sub-section (2). In other words, with the exception of eventualities mentioned in the sub-section (2) arising in relation to the payment of compensation in terms of

the award passed under Section 11, the Collector is bound to tender compensation to the interested persons in accordance with the award passed by him under Section 11. The Collector has been left with no other option under the statutory provision in the said Act in relation to disbursement of the amount awarded in exercise of powers under Section 11 of the said Act.

8. The sub-section (2) of Section 31 provides as under:-

> "2. If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the court to which a reference under section 18 would be submitted;
>
> Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount;
>
> Provided also that no person who

> has received the amount otherwise than under protest shall be entitled to make any application under section 18;
>
> Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto."

9. Referring to the above quoted second proviso to sub-section (2) of Section 31, it is sought to be contended on behalf of the respondents that unless the amount is received specifically under protest, the interested person is not entitled to seek reference under Section 18 of the said Act. It is the case of the respondents that in the cases in hand, the applicants had filed their applications even prior to receipt of the compensation under the award which is sought to be referred to the Court under Section 18. To be specific, the applications were filed on 18-5-2004 whereas the amount of compensation was received by them on 25-5-2004. This conduct on the part of the applicants, according to the learned A.G.P., discloses that they had no grievance about the compensation awarded by the Land

Acquisition Officer and there was no protest lodged while accepting such compensation and being so, considering the second proviso to sub-section (2) of Section 31, no fault can be found with the impugned orders passed by the Collector rejecting the applications filed by the applicants.

10. In order to understand the scope of the second proviso to Section 31(2) of the said Act, it is not sufficient merely to read the said proviso but it is necessary also to take note of the provisions of Section 18 as well as Section 28-A of the said Act. While Section 18, as stated above, enumerates the circumstances in which an interested party is entitled to approach the authority for reference of the matter to the civil Court for enhancement of compensation on being dissatisfied with the compensation awarded by the Land Acquisition Officer. The Section 28-A of the said Act provides that where in an award passed pursuant to reference under Section 18 of the said Act, the Court enhances the amount of compensation awarded by the Collector, the persons interested in all the other pieces of land covered by the same notification under Section 4, sub-section (1) and who were also aggrieved by the award of the Collector may, notwithstanding that they had not filed any application to the Collector under Section 18, may by written application to the

Collector within three months from the date of the award of the Court under Section 28-A require that the amount of compensation payable to them may also be re-determined on the basis of the amount of compensation awarded by the Court under Section 28-A, provided that in computing the period of three months within which an application to the Collector to be made under the said sub-section, the day on which the award is pronounced and the time requisite for obtaining a copy of the award is to be excluded. The sub-section (2) of Section 28-A provides that the Collector shall, on receipt of such application, conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants. Obviously, the procedure which is to be followed by the Land Acquisition Officer under Sections 11 and 12(2) of the said Act will have to be also followed in such cases. The sub-section (3) of Section 28-A further provides that any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination by the Court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under Section 18.

11. Bare reading of the provisions of Section 18 along with Section 28-A of the said Act would therefore disclose that every interested person aggrieved by the quantum of the compensation fixed by the Land Acquisition Officer in relation to his property acquired under the said Act can move an application under Section 18 for reference in order to claim enhancement of compensation. Even in case of failure to file such an application, and if any such person comes across an award passed by the reference Court in a case referred by some other person in relation to his property which was the subject-matter of acquisition under the same notification under which the interested person's property was subjected to acquisition, certainly in those circumstances also he can file application taking recourse to the provisions of law comprised under Section 28-A of the said Act, albeit within the time prescribed in terms of the proviso to sub-section (1) of Section 28-A. The matter does not end there. After such application is disposed of by the Collector in terms of sub-section (2) of Section 28-A, if such person is dissatisfied with such an award passed by the Collector, he can still file an application under Section 18 for reference to the Court taking recourse to sub-section (3) of Section 28-A of the said Act.

12. The Section 18 uses the expression "has not

accepted the award" whereas Section 28-A uses the expression "who are also aggrieved by the award" in relation to entitlement for reference of the matter for enhancement of compensation. This apparently discloses that the Legislature in its wisdom has assured the interested person to seek interference of the Court in cases where such interested persons are aggrieved or dissatisfied with the compensation awarded by the Land Acquisition Officer. Undoubtedly, the second proviso to Section 31(2) uses the expression "who has received the amount otherwise than under protest". Admittedly, the word "protest" has not been defined in the said Act. Undisputedly, the statutory provisions do not prescribe any specific mode of lodging the protest at the time of collecting the compensation awarded by the Land Acquisition Officer. Therefore, it cannot be said that the protest contemplated under the said proviso is necessarily by way of specific recording in writing about the protest in the receipt issued by the interested person while accepting the compensation. Considering the phraseology of Sections 18 and 28-A of the said Act, a wider meaning will have to be given to the word "protest" to be found in the second proviso to sub-section (2) of Section 31. Being so, the protest will have to be understood to be an act on the part of the interested person which will disclose his dissatisfaction about the compensation awarded by the

Land Acquisition Officer. It can be lodged in different forms either by specifically recording such protest at the time of acceptance of money or even by lodging an application for enhancement of compensation under Section 18 or even orally intimating the authorities that he is not satisfied with the compensation awarded at the time of disbursement of the amount by the Collector under Section 31(1) of the said Act. In case of such an oral intimation, it will be the duty of the compensation disbursing officer to note such protest in the records relating to the payment of compensation for the land acquired. Bearing in mind the number of illiterate people in the country and taking judicial notice of the bureaucratic red-tapism and carelessness prevailing almost in every public office, the principle that ignorance of law is no excuse should not be allowed to be stretched to such an extent that it can be a tool in the hands of the authorities to deny the statutory right in relation to the compensation to the owners whose properties are acquired. Otherwise, it may result in encouraging the acts to defeat the very purpose of Article 300-A of the Constitution of India. The provisions of the said Act cannot be read and understood by ignoring the mandate of Article 300-A of the Constitution of India. Viewed from this angle, therefore, merely because in the records of the Government there does not find any endorsement by the

interested parties that they had received the amount of compensation under protest, it cannot be presumed that the interested parties were satisfied or were not aggrieved by the compensation awarded by the Land Acquisition Officer even though they had filed their application expressing desire for enhancement of the compensation, and it could have been concluded by the Collector that the Collector was entitled to reject the application under Section 18. Hence the contentions sought to be raised on behalf of the respondents in support of the impugned orders cannot be accepted.

13. In the result, therefore, the impugned orders cannot be sustained and are liable to be set aside and are accordingly hereby quashed and set aside. The Collector, in all the above cases, is directed to dispose of the applications in accordance with the provision of law contained in Section 18 read with Section 28-A of the said Act after hearing the applicants and bearing in mind the observations made hereinabove and the well-settled law by various decisions. The rule is made absolute in above terms with no order as to costs.